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EXAMINER

WANG, JIN CHENG

ART UNIT	PAPER NUMBER
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2672

DATE MAILED: 07/07/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/864,107

Applicant(s)

VAN LIERE, FILIPS

Examiner

Jin-Cheng Wang

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 29 April 2004 and 19 May 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-22 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-22 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: _____

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DETAILED ACTION

Response to Amendment

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed 04/29/2004 has been entered. Claims 1, 10, 20 and 22 have been amended. Claims 1-22 are pending in the application.

Claim Rejections - 35 USC § 112

1. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

2. Claims 1 and 10 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention.

The claim limitation of "enabling the generation of the measurement graphics without activation of user interface constructs" as set forth in the Claims 1 and 10 is not enabled by the specification for the reasons given below.

First of all, both the specification and the claim has NOT clearly defined the term "user interface construct." The specification merely describes on page 3 "the present invention does

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not need screen area for extraneous user-interface constructs" without giving definition to the term of "extraneous user interface constructs."

Second, according to the U.S. Patent No. 5, 247,614, "user interface constructs" includes a wide range of graphical interfaces such as WINDOWS, menus, control panels, SELECTION FIELDS, ACTION BARS, SCROLLABLE PANEL AREAS, UNDISPLAYED SCROLLABLE ITEMS. The Claim 1 and similar independent claims recite "without activation of user interface constructs," which in combination with the examples of the "user interface constructs" in the above-mentioned U.S. patent, implies that "without activation of user interface constructs" such as WINDOWS. However, Applicant has clearly used the windows for displaying the images in the image manipulation system (See also Figure 2). That is to say, Applicant has activated the user interface constructs such as windows in his image manipulation system. However, the claim invention as recited in the claim 1 and 10 recites "without activation of user interface constructs."

Third, Figure 2 of the present application, "user interface constructs" such as selection fields or image fields, action bars, control panels, menus, scrollable panel areas, undisplayed scrollable items, WINDOWS, menus, control panels have been extensively described. However, the independent Claim 1 and similar claims recites "without activation of user interface constructs." However, it is clear from the Figure 2 that a plurality of user interface constructs have been ACTIVATED by the image manipulation system of the present application. While Applicant's specification describes the activation of the user interface constructs (although applicant's specification describes without activation of EXTRANEIOUS user interface constructs meaning without activation of TOO MANY user interface constructs), the

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independent Claim 1 and similar claims instead recites "without activation of user interface constructs" which is in contrary to what has been described in the specification. Therefore, the Claim 1 and similar claims are NOT enabled by the specification.

3. Claims 2-9 and 19-22 are rejected due to their dependency on the Claim 1. Claims 11-18 are rejected due to their dependency on the Claim 10.

Claim Rejections - 35 USC § 112

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5. Claims 1 and 10 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The term "user interface constructs" as recited in the Claims 1 and 10 is ambiguous because Applicant fails to particularly point out what is the "user interface constructs".

Clearly, the specification does not give a definition of the term "user interface constructs" as claimed in the claim invention. The claim invention recites "without user interface constructs". It is not clear what elements of user interface constructs is excluded from activation by the claims. Because "user interface constructs" include a wide range of elements, it is not clear whether the claims exclude from activation only some user interface constructs or exclude from activation all user interface constructs. Thus, it can not be determined what items of the user interface constructs are excluded from activation and what items are included in the

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activation in the Applicant's claim invention. Applicant's specification only excludes from activation some user interface constructs while the claim recites excluding all of the user interface constructs from activation. Because of the inconsistency between the specification and the claim as regards to the activation of the user interface constructs, the claim limitation "without activation of user interface constructs" renders the claim 1 indefinite.

6. Claims 2-9 and 19-22 are rejected due to their dependency on the Claim 1. Claims 11-18 are rejected due to their dependency on the Claim 10.

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claim 1-22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Echerer et al. U.S. Pat. No. 5,740,267 (hereinafter Echerer) in view of Cable U.S. Pat. No. 6,614,452 (hereinafter Cable).

9. Claim 1:

(a) Echerer teaches a method for providing and processing a cursored user interaction (column 8, lines 37-67, column 9, lines 1-23) with a spatially displayed medical image (column

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7, lines 21-29) and producing graphics related data on said medical image (column 12, lines 42-56), wherein said method comprises the steps of:

Controlling a mouse computer interface device, having at least one button (e.g., column 12, lines 20-30; column 13, lines 25-50);

Displaying a pointer symbol on said graphical interface, wherein said pointer symbol (e.g., a cursor) represents a current position of said mouse on said graphical interface (e.g., column 8, lines 35-55; column 12, lines 20-30; column 13, lines 25-50);

Tracking a status of each of said at least one button (e.g., column 12, lines 20-30; column 13, lines 25-50);

Detecting a position of said mouse, wherein said position detection step is activated upon actuation of one of said at least one button (e.g., column 12, lines 20-30; column 13, lines 25-50; column 15, lines 15-35); and

Enabling the generation of the measurement graphics without activation of user interface constructs such as ACTION BARS or SCROLLABLE PANEL AREAS (herein only mouse is being used instead of the user interface constructs such as ACTION BARS or SCROLLABLE PANEL AREAS; see e.g., column 12, lines 20-30; column 13, lines 25-50; column 15, lines 15-35).

(b) However Echerer is silent to providing a menu-less graphical interface for displaying, essentially unobstructed, said medical image in a substantial portion of said graphical interface and generating a measurement graphic related to a predefined set of measurement operations on said medical image upon at least one actuation of said at least one button.

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(c) Cable teaches the claim limitation of providing a menu-less graphical interface for displaying, essentially unobstructed, said medical image in a substantial portion of said graphical interface (e.g., column 8, lines 5-50) and generating a measurement graphic related to a predefined set of measurement operations on said medical image upon at least one actuation of said at least one button (e.g., figure 3A; column 8, lines 5-67).

(d) It would have been obvious to one of ordinary skill in the art to have incorporated the Cable's drawing options into Echerer's method of processing cursored user interaction because Echerer implicitly suggests providing a menu-less graphical interface for display said medical image (e.g., column 12, lines 20-30; column 13, lines 25-50) and providing a predefined interaction with said medical image, wherein said interaction is selected from a group of predefined interactions based on said status of each of said at least one button during the interval between multiple said position detection steps (e.g., column 16, lines 15-67; column 17, lines 1-67; column 18, lines 1-64) therefore suggesting an obvious modification of the Echerer's method for processing a radiograph. Moreover, Cable teaches a variety of drawing options and GUI controls including the free-hand drawing option and pop-up menu designation (Cable column 8, lines 5-67).

(e) One having the ordinary skill in the art would have been motivated to do this because it would have provided an alternative drawing option such as the free-hand drawing option that does not rely on the menus for GUI control (Cable column 8, lines 5-67).

Claim 2:

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The claim 2 encompasses the same scope of invention as that of claim 1 except additional claimed limitation that a single-point actuating/positioning assigns an actual pixel position and/or a pixel intensity quantity to the point in question. However, Echerer and Cable further disclose the claimed limitation that a single-point actuating/positioning assigns an actual pixel position and/or a pixel intensity quantity to the point in question (e.g., Echerer column 12, lines 42-56; Cable column 12, lines 35-50).

Claim 3:

The claim 3 encompasses the same scope of invention as that of claim 1 except additional claimed limitation that a point pair actuating/positioning assigns a distance value to the pair in question. However, Echerer further discloses the claimed limitation that a point pair actuating/positioning assigns a distance value to the pair in question (e.g., column 13, lines 12-49, column 15, lines 9-11).

Claim 4:

The claim 4 encompasses the same scope of invention as that of claim 1 except additional claimed limitation that a triple-point actuating/positioning assigns an angle value quantity to a middle point of the triple. However, Echerer further discloses the claimed limitation that a triple-point actuating/positioning assigns an angle value quantity to a middle point of the triple (column 15, lines 12-19).

10. Claim 5:

The claim 5 encompasses the same scope of invention as that of claim 1 except additional claimed limitation that “multiple-point actuating/positioning for an open or closed point

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sequence assigns an area value quantity to a concave region delimited by the sequence in question”. However, Cable further discloses the claim limitation of multiple-point actuating/positioning for an open or closed point sequence assigns an area value quantity to a concave region delimited by the sequence in question (Cable column 8, lines 5-67).

11. Claim 6:

The claim 6 encompasses the same scope of invention as that of claim 1 except additional claimed limitation that “a freehand-drawn actuating/positioning for an open or closed point sequence assigns an area value quantity to a concave region delimited by the sequence in question”. However, Cable further discloses the claim limitation of a freehand-drawn actuating/positioning for an open or closed point sequence assigns an area value quantity to a concave region delimited by the sequence in question (Cable column 8, lines 5-67).

12. Claim 7:

The claim 7 encompasses the same scope of invention as that of claim 1 except additional claimed limitation of “a multiple-point actuating/positioning for an open or closed point sequence assigns a poly-line measurement quantity to the sequence so drawn”. However, Cable further discloses the claim limitation of a multiple-point actuating/positioning for an open or closed point sequence assigns a poly-line measurement quantity to the sequence so drawn (Cable column 8, lines 5-67).

13. Claim 8:

The claim 8 encompasses the same scope of invention as that of claim 1 except additional claimed limitation of “for an open or closed point sequence assigns a poly-line measurement

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quantity to the sequence so drawn". However, Cable further discloses the claim limitation of a freehand-drawn actuating/positioning for an open or closed point sequence assigns a poly-line measurement quantity to the sequence so drawn (Cable column 8, lines 5-67).

14. Claim 9:

The claim 9 encompasses the same scope of invention as that of any of Claims 2 to 8 except additional claimed limitation of assigning a pixel staticizing to an assigned geometrical entity. However, Echerer further discloses the claimed limitation of assigning a pixel staticizing to an assigned geometrical entity (column 9, lines 1-23, column 15, lines 9-11).

15. Claims 10-13:

The claim 10, 11, 12, 13 encompasses the same scope of invention as that of claim 1, 2, 3, 4 respectively except additional claimed limitation of "an apparatus". However, Echerer further discloses the claimed limitation of "an apparatus" (column 5, lines 12-37).

16. Claims 14-18:

The claim 14, 15, 16, 17, 18 encompasses the same scope of invention as that of claim 5, 6, 7, 8, 9 except additional claimed limitation of "an apparatus". However, Echerer further discloses the claimed limitation of "an apparatus" (column 5, lines 12-37).

Claim 19:

The claim 19 encompasses the same scope of invention as that of claim 1 except additional claimed limitation of a machine-readable computer program. However, Echerer

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further discloses the claimed limitation of “a machine-readable computer program (column 9, lines 30-36, figures 6-9).

17. Claim 20:

The claim 20 encompasses the same scope of invention as that of claim 1 except additional claimed limitation of the step of enabling the generation of the measurement graphic based solely on actuation of said at least one button of said mouse when said pointer symbol is situated on said medical image.

However, Cable further discloses the claim limitation of the step of enabling the generation of the measurement graphic based solely on actuation of said at least one button of said mouse when said pointer symbol is situated on said medical image (e.g., creating new measurement graphic by manipulating and altering the existing measurement graphic using mouse clicking; for example, clicking a pointer 344 on a portion of the circle 328 to manipulate the ROIs; see Cable column 7-8).

18. Claim 21:

The claim 21 encompasses the same scope of invention as that of claim 1 except additional claimed limitation of the step of enabling the generation of the measurement graphic without requiring a user to define a type of graphic being generated.

However, Cable further discloses the claim limitation of the step of enabling the generation of the measurement graphic without requiring a user to define a type of graphic being generated (creating a region of interest by simply clicking on button 326 with a pointer on the

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medical image without requiring a user to define a type of graphic being generated because the type of graphic being generated is already there and thus user is not required to define or redefine the measurement graphic and clicking the button brings up or generates a graphic that is already there; see Cable column 7, lines 40-60).

19. Claim 22:

The claim 22 encompasses the same scope of invention as that of claim 1 except additional claimed limitation of the measurement graphic being generated without movement of said pointer symbol associated with said mouse outside of said medical image.

However, Cable further discloses the claim limitation of the measurement graphic being generated without movement of said pointer symbol associated with said mouse outside of said medical image (e.g., creating new measurement graphic by manipulating and altering the existing measurement graphic using mouse clicking; for example, clicking a pointer 344 on a portion of the circle 328 to manipulate the ROIs; see Cable column 7-8).

Remarks

20. Applicant's arguments, filed 04/29/2004, paper number 17, have been fully considered but they are not deemed to be persuasive.

21. On page 11 of Remarks, Applicant argues in essence with respect to the amended Claim 1 and similar claims that:

(A) "...However, a 'user interface construct' is a menu, toolbar or control panel displayed on the screen which is activated by a user interface, e.g., by pointing the cursor of the mouse to a selection on the menu, toolbar or control panel."

In response to the arguments in (A), the Examiner disagrees with Applicant's definition of "a user interface construct". The reasons are given as follows (Items a-c).

(a) Both the specification and the claim has NOT defined the term "user interface construct." The specification merely describes on page 3 "the present invention does not need screen area for extraneous user-interface constructs" without giving definition to the term of "extraneous user interface constructs."

(b), according to the U.S. Patent No. 5, 247,614, "user interface constructs" includes a wide range of graphical interfaces such as WINDOWS, menus, control panels, SELECTION FIELDS, ACTION BARS, SCROLLABLE PANEL AREAS, UNDISPLAYED SCROLLABLE ITEMS. The Claim 1 and similar independent claims recite "without activation of user interface constructs," which in combination with the examples of the "user interface constructs" in the above-mentioned U.S. patent, implies that "without activation of user interface constructs" such as WINDOWS. However, Applicant has clearly used the windows for displaying the images in the image manipulation system (See also Figure 2). That is to say, Applicant has activated the user interface constructs such as windows in his image manipulation system. However, the claim invention as recited in the claim 1 and 10 recites "without activation of user interface constructs."

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(c) Figure 2 of the present application, "user interface constructs" such as selection fields, action bars, control panels, menus, scrollable panel areas, undisplayed scrollable items, WINDOWS, menus, control panels have been extensively described. However, the independent Claim 1 and similar claims recites "without activation of user interface constructs." However, it is clear from the Figure 2 that a plurality of user interface constructs have been ACTIVATED by the image manipulation system of the present application. While Applicant's specification describes the activation of the user interface constructs (although applicant's specification describes without activation of EXTRANEIOUS user interface constructs meaning without activation of TOO MANY user interface constructs), the independent Claim 1 and similar claims instead recites "without activation of user interface constructs" which is in contrary to what has been described in the specification. Therefore, the Claim 1 and similar claims are NOT enabled by the specification.

It is apparent that Applicant may be saying that "user interface constructs" are only limited to the three items such as menus, toolbars and control panels. However, such redefinition of the "user interface constructs" IS INCORRECT as user interface constructs include a wide range of elements as pointed out previously. "User interface constructs" includes a WIDE RANGE of elements such as graphical user interface constructs and should NOT be limited to the three elements such as menus, toolbars and control panels.

22. On page 12 of Remarks, Applicant argues in essence with respect to the amended Claim 1 and similar claims that:

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(B) "In the Office Action claims 1-22 are also rejected under the second paragraph of 35 U.S.C. 112 as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicant regards as the invention. Specifically, the Examiner states that the term 'user interface construct' is ambiguous."

In response to the arguments in (B), the specification does not give a definition of the term "user interface constructs" as claimed in the claim invention. The claim invention recites "without user interface constructs". It is not clear what elements of user interface constructs is excluded from activation by the claims. Because "user interface constructs" include a wide range of elements, it is not clear whether the claims exclude from activation only some user interface constructs or exclude from activation all user interface constructs. Thus, it can not be determined what items of the user interface constructs are excluded from activation and what items are included in the activation in the Applicant's claim invention. Applicant's specification only excludes from activation some user interface constructs while the claim recites excluding all of the user interface constructs from activation. Because of the inconsistency between the specification and the claim as regards to the activation of the user interface constructs, the claim limitation "without activation of user interface constructs" renders the claim 1 indefinite and thus it is ambiguous.

23. On page 14 of Remarks, Applicant argues in essence with respect to the amended Claim 1 and similar claims that:

(C) "The Examiner's rejection is respectfully traversed on the grounds that Echerer et al. and Cable do not disclose, teach or suggest, *inter alia*, generating measurement graphics without the activation of user interface constructs, i.e., menus, toolbars and control panels, as this phrase should be interpreted in light of the specification."

In response to the arguments in (C), although the claim should be interpreted in light of the specification, the specification however does not give a definition of the term "user interface constructs" as claimed in the claim invention. Because of the inconsistency between the specification and the claim as regards to the activation of the user interface constructs, the claim limitation "without activation of user interface constructs" renders the claim 1 indefinite. The claim limitation carries no patentable weight.

With regards to the art rejection, Echerer further teaches enabling the generation of the measurement graphics without activation of some user interface constructs, i.e., without activation of ACTION BARS, OR CONTROL PANELS since Echerer teaches using a mouse only without activating ACTION BARS, OR CONTROL PANELS (See e.g., column 12, lines 20-30; column 13, lines 25-50; column 15, lines 15-35).

24. On page 15 of Remarks, Applicant argues in essence with respect to the amended Claim 1 and similar claims that:

(D) "Echerer et al. and Cable therefore do not disclose, teach or suggest generating measurement graphics on a medical image without activating a user interface construct on a medical image without activating a user interface construct to select the type of

graphic to be generated. Rather, both Echerer et al. and Cable require movement of the mouse to a user interface construct, such as a toolbar, in order to select the type of graphic to be generated. The measurement techniques of Echerer et al. and Cable therefore involve excessive mouse travel which is avoided in the present claimed invention.”

In response to the arguments in (D), although the claim should be interpreted in light of the specification, the specification however does not give a definition of the term "user interface constructs" as claimed in the claim invention. Because of the inconsistency between the specification and the claim as regards to the activation of the user interface constructs, the claim limitation "without activation of user interface constructs" renders the claim 1 indefinite. The claim limitation carries no patentable weight.

With regards to the art rejection, Echerer further teaches enabling the generation of the measurement graphics without activation of some user interface constructs, i.e., without activation of ACTION BARS, OR CONTROL PANELS since Echerer teaches using a mouse only without activating ACTION BARS, OR CONTROL PANELS (See e.g., column 12, lines 20-30; column 13, lines 25-50; column 15, lines 15-35).

Finally, the claim limitation set forth in the Claim 1 recites “user interface constructs” which might just be equivalent to toolbars because (page 1 of) the specification describes without activation of user interface constructs such as menus or toolbars.

Echerer further discloses enabling the generation of the measurement graphics without activation of user interface constructs, i.e., without activation of ACTION BARS or image fields, OR CONTROL PANELS since Echerer teaches using a mouse only without activating ACTION

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BARS or image fields, OR CONTROL PANELS (See e.g., column 12, lines 20-30; column 13, lines 25-50; column 15, lines 15-35).

Therefore, Echerer/Cable fulfills the amended Claim 1 as currently drafted.

25. On page 16-17 of Remarks, Applicant argues in essence with respect to the amended Claim 20 and similar claims that:

(E) "...thus Cable does not disclose the feature of claim 20."

In response to the arguments in (E), the Examiner asserts that Cable discloses the claim limitation of the step of enabling the generation of the measurement graphic based solely on actuation of said at least one button of said mouse when said pointer symbol is situated on said medical image. For example, Cable teaches creating new measurement graphic by manipulating and altering the existing measurement graphic using mouse clicking; for example, clicking a pointer 344 on a portion of the circle 328 to manipulate the ROIs. See Cable column 7-8.

26. On page 17 of Remarks, Applicant argues in essence with respect to the Claim 21 and similar claims that:

(F) "...thus Cable does not disclose, teach or suggest the features of claim 21."

In response to the arguments in (E), the Examiner asserts that Cable discloses the claim limitation of the step of enabling the generation of the measurement graphic without requiring a user to define a type of graphic being generated. For example, Cable teaches creating a region of interest by simply clicking on button 326 with a pointer on the medical image without requiring a user to define a type of graphic being generated because the type of graphic being generated is

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already there and thus user is not required to define or redefine the measurement graphic. See Cable column 7, lines 40-60.

27. On page 18 of Remarks, Applicant argues in essence with respect to the amended Claim 22 and similar claims that:

(G) "... Thus, Cable does not disclose, teach or suggest the feature of claim 22."

In response to the arguments in (G), the Examiner asserts that Cable discloses the claim limitation of the measurement graphic being generated without movement of said pointer symbol associated with said mouse outside of said medical image. For example, Cable teaches creating new measurement graphic by manipulating and altering the existing measurement graphic using mouse clicking; for example, clicking a pointer 344 on a portion of the circle 328 to manipulate the ROIs. See Cable column 7-8.

Conclusion

28. This is a request for continuing examination of applicant's earlier Application No. 09/864107. All claims are drawn to the same invention claimed in the earlier application and could have been finally rejected on the grounds and art of record in the next Office action if they had been entered in the earlier application. Accordingly, **THIS ACTION IS MADE FINAL** even though it is a first action in this case. See MPEP § 706.07(b). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).


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A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no, however, event will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

29. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jin-Cheng Wang whose telephone number is (703) 605-1213. The examiner can normally be reached on 8:00 - 6:30 (Mon-Thu).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mike Razavi can be reached on (703) 305-4713. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


JEFFERY BRIER
PRIMARY EXAMINER

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